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UNCLAS SECTION 01 OF 02 PORT AU PRINCE 003043

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E.O. 12958: N/A

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SUBJECT: HAITI'S INTERIM GOVERNMENT SENDS HALF OF THE SUPREME COURT INTO EARLY RETIREMENT

REF: PAP 3019

1. (SBU) Summary: The Interim Government of Haiti (IGOH) issued a presidential decree retiring five judges from the Haitian Supreme Court. While most of Haitian society appears to have accepted the action without much concern, the legal community has cried foul. The move comes on the heels of IGOH outrage over two Supreme Court decisions affirming Haitian-American Dumas Simeus' right to appear on the presidential ballot. Post does not expect this event to delay elections, nor do we envision Simeus getting onto the presidential ballot. This is another ill-considered IGOH decision that distracts from the urgent task of keeping elections on track. End Summary.

2. (SBU) On December 9, the Interim Government of Haiti (IGOH) issued a presidential decree removing five of ten judges of the Haitian Supreme Court due to age and/or illness. The IGOH cited a 1995 legal provision stating that justices can be retired after the age of sixty (Note: all judges on the Supreme Court are over sixty years old. End Note.) A sixth judge, vice president and acting president of the Supreme Court, George Henri, died November 25 and is to be replaced by former interim Minister of the Interior Georges Moise, according to the decree. (Note: Post reported in refel that the Supreme Court lacked a quorum. As only five judges sit on any given case, with one justice's illness and the death of Henri, that five-member panel of the Supreme Court lacked a quorum to render a judgment on disputed presidential candidate, and U.S. citizen, Samir Mourra's case. End Note.) The interim president's chief of staff, Michel Brunache, told the press the decision to retire the justices was made several weeks ago. The evening of December 9, interim Prime Minister Latortue confirmed to the DCM that the cabinet had approved the decision on December 7, the morning the Supreme Court publicized its second decision requesting Simeus' name be included on the presidential ballot.

3. (SBU) While the press and public reaction to the decree was muted over the weekend, there was significant rancor within the legal community. One leading lawyer told Poloff "we are surprised, disappointed and indignant" of the decision to force the judges into early retirement. He characterized the IGOH's move as "illegal, arbitrary and unconstitutional." Alyans' presidential candidate, Evans Paul, publicly chided the IGOH for the forced retirement of the justices, but concurred the Supreme Court had violated the constitution by requesting Simeus to be put onto the ballot. Another presidential candidate, ALAH's Reynold Georges, himself a lawyer, said the IGOH's maneuver is "an insult to the legal profession." There is, however, a precedent. Former president Ertha Pascal-Trouillot fired the entire Supreme Court.

4. (U) Three of the four "retired" justices are refusing to relinquish their seats on the bench (the fourth judge is ill). The National Association of Magistrates and the Association of Female Judges began a one week strike December 12 in solidarity with the justices protesting the IGOH's decision. Neither interim president Boniface Alexandre (who was president of the Supreme Court prior to his current position) or Minister of Justice Henri Dorleans (a human rights lawyer to whom the judges throughout Haiti report) has made a public statement regarding the retirement of the Supreme Court justices.

5. (SBU) Comment: Despite Brunache's (and the PM's) explanation, the vast majority of informed observers agree that the move to pension off the justices is tied to the October 11 and December 5 decisions in the Simeus case, and the IGOH is merely using the 1995 provision as a premise. The IGOH's explanation that justices were retired due to their age does not appear to withstand cursory scrutiny. Some of the judges retained are older than the ones retired. President Alexandre, nearly seventy, expects to return to the Supreme Court once a newly-elected president is sworn in. We do not expect this event to delay the elections, nor do we envision Simeus getting onto the ballot. (Printed ballots for seven of the ten departments have arrived in Port-au-Prince and are being guarded by MINUSTAH; the

remaining ballots are expect in country NLT December 15.)  
However, the IGOH's decision to retire the justices makes it  
look foolish, and provides Simeus with an issue to keep  
himself in the public eye. End Comment.  
CARNEY